

Lesson 1-3

Legal and Ethical Issues

Objectives

Objectives Legend

C=Cognitive P=Psychomotor A=Affective

1 = Knowledge level

2 = Application level

3 = Problem-solving level

Cognitive Objectives

At the completion of this lesson, the CFR (CFR) student will be able to:

- 1-3.1 Review the CFR scope of practice (scope of care). (C-1)
- 1-3.2 Discuss the importance of Do Not Resuscitate [DNR] (advance directives) and local or state provisions regarding EMS application. (C-1)
- 1-3.3 Review consent and discuss the methods of obtaining consent. (C-1)
- 1-3.4 Differentiate between expressed (informed) and implied consent. (C-3)
- 1-3.5 Explain the role of consent of minors in providing care. (C-1)
- 1-3.6 Discuss the implications for the CFR in patient refusal of transport. (C-1)
- 1-3.7 Discuss the issues of abandonment, negligence, and battery and their implications to the CFR. (C-1)
- 1-3.8 State the conditions necessary for the CFR to have a duty to act.
- 1-3.9 Explain the importance, necessity and legality of patient confidentiality.
- 1-3.10 List the actions that a CFR should take to assist in the preservation of a crime scene. (C-3)
- 1-3.11 State the conditions that require a CFR to notify local law enforcement officials. (C-1)

Affective Objectives

At the completion of this lesson, the CFR student will be able to:

- 1-3.12 Explain the rationale for the needs, benefits and usage of advance directives. (A-3)
- 1-3.13 Explain the rationale for the concept of varying degrees of DNR. (A-3)

Psychomotor Objectives

No psychomotor objectives identified.

Preparation

Motivation:

Legal and ethical issues are a vital element of the CFR's daily life. Should a CFR stop and treat an automobile crash victim when off duty? Should patient information be released to the attorney on the telephone? Can a child with a broken arm be treated even though the parents are not at home and/or only the child care provider is around? These and many other legal and ethical questions face the CFR every day. Guidance will be given in this lesson to answer these questions and learn how to make the correct decision when other legal and ethical questions arise.

Prerequisites:

None.

Materials

AV Equipment:

Utilize various audio-visual materials relating to emergency medical care. The continuous development of new audio-visual materials relating to EMS requires careful review to determine which best meet the needs of the program. Materials should be edited to ensure that the objectives of the curriculum are met.

EMS Equipment:

None required.

Personnel

Primary Instructor:

One EMT-B Instructor knowledgeable in the legal aspects and ethical issues that the CFR will encounter.

Assistant Instructor:

None required

Recommended Minimum Time to Complete:

One hour

Presentation

Declarative (What)

- I. Scope of Practice (Scope of Care)
 - A. Legal duties to the patient, medical director, and public
 - 1. Provide for the well-being of the patient by rendering necessary interventions outlined in the scope of care.
 - 2. Defined by state law
 - a. Enhanced by medical oversight through the use of protocols and standing orders
 - b. Referenced to the National Standard Curricula
 - 3. Legal right to function as a CFR may be contingent upon medical oversight.
 - a. Telephone/radio communications
 - b. Approved standing orders/protocols
 - c. Responsibility to medical oversight
 - B. Ethical responsibilities
 - 1. Make the physical/emotional needs of the patient a priority.
 - 2. Practice of skills to the point of mastery.
 - 3. Attend continuing education/refresher programs.
 - 4. Review performances, seeking ways to improve response time, patient outcome, communication.
 - 5. Honesty in reporting
- II. Competence
 - A. Competence is the ability to understand the questions of the CFR and to understand the implications of decisions made.
 - B. In order for a CFR to receive consent or refusal of care, the CFR should determine competence.
 - C. May not be possible in certain cases:
 - 1. Intoxication
 - 2. Drug ingestion
 - 3. Serious injury
 - 4. Mental incompetence
- III. Consent
 - A. A competent patient has the right to make decisions regarding care.
 - B. A patient must consent to emergency medical care.
 - C. The acceptance of care based on the information provided
 - D. Types of consent
 - 1. Expressed (Informed)
 - a. Patient must be competent and of legal age
 - b. Patient must be informed of the steps of the procedures and all related risks.

- c. Must be obtained from every responsive, mentally competent adult before rendering emergency medical care.
 - d. Methods of obtaining consent
 - (1) Identify yourself
 - (2) Inform the patient of your level of training
 - (3) Explain the procedures to the patient
 - (a) Identify the benefits
 - (b) Identify the risks
 - 2. Implied
 - a. Consent assumed from the unresponsive patient requiring emergency intervention
 - b. Based on the assumption that the unresponsive patient would consent to life saving interventions
 - E. Children and mentally incompetent adults
 - 1. Consent for emergency medical care must be obtained from the parent or legal guardian.
 - a. Emancipation issues
 - b. State regulations regarding age of minors
 - 2. When life threatening situations exist and the parent or legal guardian is not available for consent, emergency medical care should be rendered based on implied consent.
- IV. Advance Directives/Do Not Resuscitate (DNR) orders
- A. Patient has the right to refuse resuscitative efforts.
 - B. In general, requires written order from physician.
 - C. Review state and local legislation/protocols relative to DNR orders and advance directives.
 - D. When in doubt or when written orders are not present, the CFR should begin resuscitation efforts.
- V. Refusals
- A. Competent adult patients have the right to refuse emergency medical care.
 - B. The CFR should not make an independent decision regarding the refusal of care.
 - C. The patient may withdraw from emergency medical care at any time.
Example: an unresponsive patient regains responsiveness and refuses transport to the hospital.
 - D. Refusals must be made by mentally competent adults following the rules of expressed (informed) consent.
 - E. The patient must be informed of and fully understand all the risks and consequences associated with refusal of emergency medical care
 - F. When in doubt, err in favor of providing care.
 - G. The CFR must ensure that additional EMS resources will evaluate the patient.

- H. While awaiting arrival of additional EMS resources the CFR should:
 - 1. Try again to persuade the patient to accept care.
 - 2. Determine whether the patient is able to make a rational, informed decision, e.g., is not under the influence of alcohol or other drugs or illness/injury effects.
 - 3. Inform the patient why he/she should accept care and what may happen to him if he does not.
 - 4. Consult medical oversight as directed by local protocol.
 - 5. Consider assistance of law enforcement.
 - 6. Report any assessment findings and emergency medical care provided.
- VI. Assault/Battery
 - A. Not a universal definition
 - B. Unlawfully touching a patient without consent
 - C. Providing emergency medical care when a competent patient does not consent to the emergency medical care
- VII. Abandonment
 - A. Terminating care of the patient without insuring that care will continue at the same level or higher.
- VIII. Negligence
 - A. Deviation from the accepted standard of care resulting in further injury to the patient.
 - B. Components of negligence
 - 1. Duty to Act
 - a. A contractual or legal obligation must exist.
 - (1) Formal - As part of CFRs occupation, they are required to render emergency medical care.
 - (2) Implied
 - (a) patient calls for assistance and the dispatcher confirms that help is being sent.
 - (b) The CFRs are dispatched as part of the EMS response.
 - (c) Emergency medical care is begun on a patient.
 - b. "Legal" duty to act
 - (1) Varies according to state law
 - (2) Moral considerations
 - (3) Ethical considerations.
 - c. Specific state regulations regarding duty to act.
 - d. Duty to act appropriately
 - (1) Following guidelines for standards of care
 - (2) Acting as another prudent individual would in that situation

2. Breach of the duty
 - a. Failure to act
 - b. Failure to act appropriately
3. Injury/damages were inflicted
 - a. Physical
 - b. Psychological
4. The actions or lack of actions of the CFR caused the injury/damage.

IX. Confidentiality

- A. Confidential information
 1. Patient history gained through interview
 2. Assessment findings
 3. Emergency medical care rendered
- B. Releasing confidential information
 1. Release of information requires a written release form signed by the patient.
 2. Do not release any patient information on request, unless authorized in writing.
 3. Release is not required when:
 - a. Other health care providers need to know information to continue care.
 - b. State law requires reporting incidents (examples: rape, abuse or gun shot wounds).
 - c. Subpoena

X. Special Situations - Medical Identification Insignia

- A. Bracelet, necklace, card
- B. Indicates a medical condition of the patient
 1. Allergies
 2. Diabetes
 3. Epilepsy

XI. Potential Crime Scene/Evidence Preservation

- A. Dispatch should notify police personnel.
- B. Responsibility of the CFR
 1. Emergency medical care of the patient is the CFR's priority.
 2. Do not disturb any item at the scene unless emergency medical care requires it.
 3. Observe and document anything unusual at the scene.
 4. If possible, do not cut through holes in clothing from gunshot wounds or stabbing.

Application

Procedural (How)

None identified for this lesson.

Contextual (When, Where, Why)

Legal and ethical issues are present in every aspect of patient care. Decisions to treat or not treat a patient, to release or not release information, to report or not report an incident all require a knowledge of current state and local legislation, policy, and protocol. Up-to-date knowledge of the current legal interpretation of issues such as negligence, battery, confidentiality, consent, and refusal of emergency medical care is essential for the CFR.

Student Activities

Auditory (Hearing)

1. Students should hear actual case law and common law decisions relative to CFR.

Visual (Seeing)

1. Students should see actual copies of medical identification insignia, organ donor cards, Do Not Resuscitate orders, and information release forms.
2. Students should see audio-visual materials of definitions of legal terms such as negligence, abandonment, battery, duty to act, consent, confidentiality.

Kinesthetic (Doing)

1. Students should practice making decisions while role playing the various legal and ethical situations that occur in the EMS environment (including consent, abandonment, battery, duty to act, negligence, and confidentiality).
2. Students should role play situations in which DNR orders are in effect.
2. Students should role play situations of patients refusing emergency medical care.

Instructor Activities

Facilitate discussion and supervise practice.
Reinforce student progress in cognitive, affective, and psychomotor domains.
Redirect students having difficulty with content. (Complete remediation form.)

Evaluation

Practical:

Evaluate the actions of the CFR students during role play, practice, or other skill stations to determine their compliance with the cognitive and affective objectives and their mastery of the psychomotor objectives of this lesson.

Written:

Develop evaluation instruments, e.g., quizzes, oral reviews, and handouts, to determine if the students have met the cognitive and affective objectives of this lesson.

Remediation

Identify students or groups of students who are having difficulty with this subject content. Complete remediation sheet from the instructor's course guide.

Enrichment

What is unique in the local area concerning this topic? Complete enrichment sheets from instructor's course guide and attach with lesson plan.